HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 473 of 2006 (SS)

Krishna Lal Kamboj s/o Sri Baghela Ram
Working in Kisan Sahkari Chini Mill
Gadarpur, Udham Singh Nagar ..... Petitioner

Versus

1. Kisan Sahkari Sugar Mill, Gadarpur
   Though General Manager
2. Rishi Kumar Posted as Lab Chemist at Kisan
   Sahakari Sugar Mill Gadarpur ..... Respondents

Dated: 31.3.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Gpoal Narain, counsel for the petitioner and Sri T.A. Khan counsel for the respondents.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the order dated 16.3.2006 passed by the respondent no. 1.

According to the petitioner he was initially employed on 18./11.1987 as P.H. Recorder in the respondent Sugar Mill. He was promoted as Lab Chemist Observer-C. The grievance of the petitioner is that he is entitled for the next promotion and pay scale but the junior workman to the petitioner was given promotion on 16.3.2006. The petitioner has made a representation on 15.11.2005 but no decision has been taken on his representation.

Since the petitioner is working in Kisan Sahkari Sugar Mill, Gadarpur, therefore, jurisdiction lies under U.P. Industrial Dispute Act, and the matter is cognisable by the Labour Court.

The Apex Court in the case Workmen, H.L. Ltd; vs. Hindustan Lever Ltd; AIR 1984 SC 1683, has observed as under:

"The expression "industrial dispute" is defined in Section 2(k) to mean "any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person". The question is: whether a demand for confirmation in the promoted post after a lapse of a certain time would be a dispute which is connected with the terms of employment or the condition of labour in the facts and circumstances of this case? The expression "industrial dispute" has been the subject-matter of numerous decisions of this Court and the High courts. The one feature common to all the decisions is that the expression has been so widely defined as not to leave anything out of its comprehension and purview involving the area of conflict that may develop between the employer and the workmen and in respect of which a compulsory adjudication may not be available. This is recognized to be the width and comprehension of the expression. "

Further in the case G.M. K.S.C.M. Ltd; Sultanpur vs. Satrughan Nishad, 2003 (99) FLR 870 has that Kisan Sahkari Chini Mills Ltd. Is engaged in manufacture and sale of sugar, which would not involve any public function, therefore,

jurisdiction of the High Court under Article 226 could not have been invoked.

In view of above, writ petition is not maintainable in this Court. However, liberty is given to the petitioner to approach the State Government for making reference to the Labour Court under U.P. Industrial Dispute Act. In case such an application is made by the petitioner, the State Government is directed to refer the matter to the Labour Court for adjudication.

Subject to the observations made above, the writ petition is dismissed. No order as to costs.

Dated: 31.3.2006 **Rajesh Tandon, J.**

*Dhyani